



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 30, 2010

Ms. Kara S. Comte  
Assistant District Attorney  
Brazos County District Attorney's Office  
300 East 26th Street, Suite 310  
Bryan, Texas 77803

OR2010-11492

Dear Ms. Comte:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 388657.

The Brazos County District Attorney's Office (the "district attorney") received a request for all information pertaining to a specified case. You claim that the submitted information is excepted from disclosure under section 552.103 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted information. We have also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, we note the submitted information consists of a completed investigation, which is subject to section 552.022(a)(1) of the Government Code. Section 552.022(a)(1) provides for the required public disclosure of "a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108." *Id.* § 552.022(a)(1). Pursuant to section 552.022(a)(1), a completed investigation is expressly public unless it is either excepted under section 552.108 of the Government Code or is expressly confidential under other law. Although you raise section 552.103 of the Government Code, section 552.103 is a discretionary exception to disclosure that protects a governmental body's interests and may be waived. *See id.* § 552.007; *Dallas Area Rapid*

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<sup>1</sup>We note that you have withdrawn your initial argument under section 552.108 of the Government Code.

*Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); Open Records Decision No. 665 at 2 n.5 (discretionary exceptions generally), 663 (1999) (governmental body may waive section 552.103). As such, section 552.103 is not “other law” that makes information confidential for the purposes of section 552.022. Therefore, the district attorney may not withhold the submitted information under section 552.103 of the Government Code. However, section 552.136 of the Government Code is “other law” for the purposes of section 552.022, and we will address whether it applies to the submitted information.<sup>2</sup>

Section 552.136 states that “[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” Gov’t Code § 552.136(b). Section 552.136(a) defines “access device” as “a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to . . . obtain money, goods, services, or another thing of value [or] initiate a transfer of funds other than a transfer originated solely by paper instrument.” *Id.* § 552.136(a). Upon review, we conclude the bank account number and routing number we marked must be withheld under section 552.136.<sup>3</sup> The remaining information must be released.<sup>4</sup>

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<sup>2</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

<sup>3</sup>We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a bank account number and a bank routing number under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision.

<sup>4</sup>We note the remaining information includes the requestor’s social security number, fingerprints, and bank account number. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person’s social security number from public release without the necessity of requesting a decision from this office under the Act. Additionally, as previously noted, this office recently issued Open Records Decision No. 684, a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a fingerprint under section 552.101 in conjunction with section 560.003 of the Government Code and a bank account number under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision. The requestor has a right, however, to his own social security number, fingerprints, and bank account number. *See generally* Gov’t Code § 552.023(b) (governmental body may not deny access to person to whom information relates, or that person’s representative, solely on grounds that information is considered confidential by privacy principles). Accordingly, if the district attorney receives another request for this information from an individual other than one with a right of access under section 552.023, the district attorney is authorized to withhold the requestor’s social security number under section 552.147, fingerprints under section 552.101 in conjunction with section 560.003, and bank account number under section 552.136, without the necessity of requesting an attorney general decision.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Sarah Casterline  
Assistant Attorney General  
Open Records Division

SEC/eeg

Ref: ID# 388657

Enc. Submitted documents

c: Requestor  
(w/o enclosures)